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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/026,063	12/19/2001	David A. Ballard	11836.0727.NPUS00	8576
27551	7590	08/02/2004		
HOWREY SIMON ARNOLD & WHITE LLP 2941 FAIRVIEW PARK DR, BOX 7 FALLS CHURCH, VA 22042				
			EXAMINER TUCKER, PHILIP C	
			ART UNIT 1712	PAPER NUMBER

DATE MAILED: 08/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

SC

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/026,063	BALLARD ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Philip C Tucker	1712	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 19 July 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 7-18, 21-25, 29, 30 and 41-49 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 7-18 and 41-49 is/are allowed.
- 6) ☒ Claim(s) 21-25, 29 and 30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

**The finality of the prior office action is withdrawn in view of the new rejections presented in the current paper.**

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 21 and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Walles (4741401).

Walles teaches a wellbore fluid which comprises a peroxide, such as sodium peroxide, which is encapsulated by a polymer which forms a film and is insoluble in wellbore fluids having a pH value greater than about 7.5 (see column 5, lines 44-62 and column 4, line 67 – column 5, line 5).

3. Claims 21-25 are rejected under 35 U.S.C. 102(e) as being anticipated by Norman et al. (6357527).

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Norman teaches a wellbore fluid which can contain a breaker which comprises a peroxide (column 4, line 64 – column 5, line 3) which is encapsulated by a film of polymer which would be insoluble at a pH of 7.5. The polymer may comprise the same acrylic acid and acrylate compounds, and thus would be enteric as in the present invention (column 5, lines 4-25).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 29 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Norman (6357527) in view of Dawson (5624886).

Norman teaches a wellbore fluid which can contain a breaker which comprises a peroxide (column 4, line 64 – column 5, line 3) which is encapsulated by a film of polymer which would be insoluble at a pH of 7.5. The polymer may comprise the same acrylic acid and acrylate compounds, and thus would be enteric as in the present invention (column 5, lines 4-25). Norman differs from the present invention in that the specific use of zinc peroxide or alkaline earth peroxides, such as magnesium peroxide is not disclosed. Dawson teaches that peroxides, in encapsulated form, such as zinc, calcium or magnesium peroxide may be used to break polymers in wellbore fluids (column 5, lines 14-55). It would be obvious to one of ordinary skill in the art to utilize

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known solid peroxide breakers for wellbore fluids, such as the zinc, calcium or magnesium peroxide disclosed in Dawson, in the fluids of Norman, given the teaching of Norman that solid peroxides which are useful as breakers may be encapsulated and used as breakers in the wellbore fluid.

6. Claims 7-18 and 41-49 are allowable over the art of record.


7. Applicants amendment distinguishes over the Chang and Dawson references of the prior office action, since they failed to teach the specific encapsulating materials of the present invention. New rejections are presented herein.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Philip C Tucker whose telephone number is 571-272-1095. The examiner can normally be reached on Monday - Friday, Flexible schedule.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Randy Gulakowski can be reached on 571-272-1302. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Philip C Tucker  
Primary Examiner  
Art Unit 1712

PCT-3071